

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESale PRICE)
LITIGATION)
_____)

THIS DOCUMENT RELATES TO:)

United States of America ex rel. Ven-a-)
Care of the Florida Keys, Inc., v. Abbott)
Laboratories, Inc., Civil Action No. 06-)
11337-PBS;)

MDL No. 1456

Civil Action No. 01-12257-PBS

Subcategory No. 06-11337-PBS

Hon. Patti B. Saris

United States of America ex rel. Ven-a-)
Care of the Florida Keys, Inc., v. Dey,)
Inc., et al., Civil Action No. 05-11084-)
PBS; and)

United States of America ex rel. Ven-a-)
Care of the Florida Keys, Inc., v.)
Boehringer Ingelheim Corp., et al., Civil)
Action No. 07-10248-PBS)

**JOINT MOTION TO ESTABLISH
BRIEFING SCHEDULE FOR SUMMARY JUDGMENT MOTIONS**

In accordance with the instruction of the Court at the hearing on May 28, 2009, the parties to the above-captioned cases jointly propose the following briefing schedule for summary judgment motions:

June 26, 2009

Defendants shall file their motions for summary judgment and supporting materials. The principal brief of each defendant shall not exceed 40 pages. If defendants file a joint brief on common issues, the total number of pages of all defense briefs shall not exceed 120 pages.

July 24, 2009	Plaintiffs shall file their oppositions to defendants' motions for summary judgment, and plaintiffs' motions for summary judgment and supporting materials. The opposition memoranda and principal brief shall not exceed 50 pages with respect to each defendant. If plaintiffs file a joint brief on common issues, the total number of pages of all plaintiffs' briefs shall not exceed 150 pages. The Relator reserves its right to request leave to file separate motions and briefs.
August 5, 2009	The parties shall confer and attempt to reach agreement on reasonable page limits for further briefs, and shall promptly either file a motion to establish page limits or advise the Court of any disagreement.
August 28, 2009	Defendants shall file their (a) replies, if any, in further support of defendants' motions for summary judgment, and (b) oppositions to plaintiffs' motions for summary judgment.
September 15, 2009	Plaintiffs shall file (a) sur-replies, if any, in further opposition to defendants' motions for summary judgment, and (b) replies, if any, in further support of plaintiffs' motions for summary judgment.
September 28, 2009	Defendants shall file sur-replies, if any, in further opposition to plaintiffs' motions for summary judgment.
October, 2009	The parties suggest two days for argument in late October, at the convenience of the Court.

Respectfully submitted,

For the United States of America,

MICHAEL K. LOUCKS
ACTING UNITED STATES
ATTORNEY

/s/ George B. Henderson, II
George B. Henderson, II
James J. Fauci
Assistant U.S. Attorneys
John Joseph Moakley U.S. Courthouse
Suite 9200, 1 Courthouse Way
Boston, MA 02210
Phone: (617) 748-3272
Fax: (617) 748-3971

TONY WEST
ASSISTANT ATTORNEY GENERAL
Joyce R. Branda
Daniel R. Anderson
Gejaa Gobena
Justin Draycott
Laurie A. Oberembt
Civil Division
Commercial Litigation Branch
P. O. Box 261
Ben Franklin Station
Washington, D.C. 20044
Phone: (202) 514-3345

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

Mark A. Lavine
Ann St.Peter-Griffith
Special Attorneys for the Attorney
General
99 N.E. 4th Street, 3rd Floor
Miami, FL 33132
Telephone: (305) 961-9003
Facsimile: (305) 536-4101

For the relator, Ven-A-Care of the Florida
Keys, Inc.,

/s/ James J. Breen
James J. Breen
Alison W. Simon
The Breen Law Firm, P.A.
3350 S.W. 148th Avenue, Suite 110
Miramar, FL 33027
Phone: (954) 874-1635
Fax: (954) 874-1705

For the Defendants

For Abbott Laboratories, Inc.,

James R. Daly
Eric P. Berlin
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

/s/ David S. Torborg

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

For Dey, Inc., Dey L.P., Inc., and Dey L.P.,

/s/ Sarah Reid

Neil Merkl
Sarah Reid
Kelley Drye & Warren LLP
101 Park Ave
New York, New York 10178
(212) 808-7800

For the Defendants Boehringer Ingelheim Corporation, Boehringer Ingelheim Pharmaceuticals, Inc., Roxane Laboratories, Inc., and Roxane Laboratories, Inc., n/k/a Boehringer Ingelheim Roxane, Inc.:

/s/ John W. Reale

Eric Gortner
John W. Reale (BBO#65465)
Kirkland & Ellis LLP
200 E. Randolph Street
74th Floor
Chicago, IL 60601
(312) 861-2000
(312) 665-2200

Dated: June 25, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above JOINT MOTION TO ESTABLISH BRIEFING SCHEDULE to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: June 25, 2009

/s/ George B. Henderson, II

George B. Henderson II